

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

FIDELITY AND GUARANTY  
LIFE INSURANCE COMPANY,

PLAINTIFF,

v.

CASE NO.: WDQ-02-CV-3629

MYRON M. WEASELBOY, et al.

DEFENDANTS

\* \* \* \* \*

**FIDELITY & GUARANTY LIFE INSURANCE COMPANY'S CONSENT MOTION  
FOR ATTORNEYS' FEES AND COSTS**

Fidelity & Guaranty Life Insurance Company ("F&G Life"), by and through its attorneys, Stephen H. Kaufman and Levin & Gann, P.A., hereby moves the Court for an Order allowing F&G Life to be reimbursed for certain of its attorneys' fees and costs incurred in bringing this action and says:

1. F&G Life instituted this interpleader case to resolve competing claims to an annuity. The Court's November 12, 2002 Order granting interpleader allowed F&G Life to seek reimbursement of its attorneys' fees and costs associated with bringing this case.

2. This case has been concluded by summary judgment granting Defendant Singer Asset Finance Company, LLC ("Singer") the right to certain payments at issue.

3. Attorneys' fees are appropriate in an interpleader case. Costs and fees are typically available when the party initiating the interpleader is acting as a mere stakeholder and does not enter the conflict as to who is entitled to the funds. *See, e.g., Perkins State Bank*, 632 F.2d at 1311; *Prudential-Bache Securities, Inc. v. Tranakos*, 593 F. Supp. 783, 786 (N.D. Ga. 1984) (awarding fees); *Equifax, Inc. v. Luster*, 463 F. Supp. 352 (E.D. Ark. 1978), *affirmed on other grounds*, 604 F.2d 31 (8th Cir. 1979), *cert. denied*, 445 U.S. 916 (1980) (same);

*Developers Corp. v. Manassas Iron & Steel Co.*, 208 F. Supp. 485 (D. Md. 1962).

4. F&G Life has consulted with counsel for Defendants F&G Assignment and Singer, and they consent to F&G Life being reimbursed fees and costs of \$2,007.53, to be paid from the next seven payments under Annuity No. I634331. Of that amount, just over \$350.00 is for actual out-of-pocket costs and the remaining amount is attorneys' fees for preparing and filing the initial complaint, motion for interpleader, memorandum supporting interpleader and obtaining service of process. The agreed upon fees are substantially less than those actually incurred through the date of filing of the initial complaint. As illustrated by the orders attached to F&G Life's original memorandum in support of interpleader, this Court has resolved many structured settlement interpleaders substantially identical to the current case, typically by consent judgment. Attorneys' fees have been awarded to F&G Life in each case resolved by consent.

WHEREFORE, F&G Life respectfully requests that this Honorable Court issue an order awarding F&G Life the next seven Annuity payments. In all other respects, the Order granting Singer's Motion for Summary Judgment entered on September 15, 2003 would remain unaffected.

Respectfully submitted,

/s/

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Attorney for F&G Life Insurance Company

**CERTIFICATE OF SERVICE**

I hereby certify that on this 24th day of September, 2003, a copy of the foregoing Fidelity & Guaranty Life Insurance Company's Consent Motion for Attorneys' Fees and Costs and proposed Order was mailed first-class, postage prepaid to:

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/s/

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Stephen H. Kaufman

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\* \* \* \* \*

**ORDER**

UPON CONSIDERATION OF Fidelity & Guaranty Life Insurance Company's Consent Motion for Attorneys' Fees and Costs and any opposition thereto, it is this \_\_\_\_\_ day of \_\_\_\_\_, 2003,

ORDERED that F&G Life's Motion BE, and HEREBY IS, GRANTED; it is further

ORDERED that F&G Life shall be reimbursed for attorneys fees and costs in the amount of \$2,007.53, to be paid from the next seven (7) payments from Annuity No. I634331; it is further

ORDERED that in all other respects, the Court's Order granting Singer's Motion for Summary Judgment entered on September 15, 2003 is reaffirmed.

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William D. Quarles  
United States District Judge